



OFFICE OF PUBLIC SCHOOL CONSTRUCTION

I n t e r a g e n c y S u p p o r t D i v i s i o n

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Date: April 16, 1999

Mass Mailer #99-04

To: All School Districts and County Superintendents of Schools

Subject: **ADVISORY OF ACTIONS TAKEN BY THE STATE ALLOCATION BOARD AND OTHER ISSUES**

On March 24, 1999, the State Allocation Board (SAB) apportioned approximately \$62 million for Lease-Purchase Program (LPP) new construction and modernization projects, approximately \$36 million for School Facility Program (SFP) new construction projects, approximately \$128 million for SFP modernization projects, and \$20 million for Deferred Maintenance Program (DMP) projects. The SAB addressed other issues as follows:

Consent Calendar

The LPP Construction Cost Indices for Class B, Class D, Historical Savings, and Furniture and Equipment adjustment factors remain unchanged for the month of March.

The consent agenda included LPP Phase C (construction) apportionments, bid approvals, and ongoing project cost increases for 35 new construction and modernization projects. Districts that received a Phase C (construction) apportionment pursuant to the provisions of the LPP are subject to the "one year" Time Limit on Apportionment Policy. In addition, the SAB approved 309 applications for eligibility and 88 grant applications for new construction and modernization projects pursuant to the provisions of the SFP.

Districts that received a funding approval under the SFP are required to submit *Fund Release Authorization* (Form SAB 50-05) within 18 months, otherwise the apportionment may be rescinded. The SAB 50-05 is used by the district to certify the available district matching share and that the district has entered into a binding contract for at least 50% of the construction cost of the buildings in the plans and specifications (P&S). When the SAB 50-05 is submitted to the Office of Public School Construction (OPSC), the State funding for the project will be released to the district. For specific information regarding time limits, contact Mr. Don Hartin at dhartin@dgs.ca.gov or (916) 445-0529.

Status of Funds

There are approximately \$113.6 million in prior bond funds remaining in the LPP to address ongoing project costs, bid approvals, and the Northridge Earthquake Program. The balance available from Proposition 1A funds is approximately \$2.6 billion.

The SAB set aside \$68.5 million from the remaining funds in the LPP to fund projects in the Year-Round Schools Air Conditioning/Insulation Program that are on the "unfunded" list and the districts have recertified the year-round education requirements. An item has been scheduled for presentation to the SAB at the April 28, 1999, meeting to apportion these projects. The affected districts have been notified by letter of their pending action.

Deferred Maintenance

Senate Bill 1564, Chapter 330, Statutes of 1998 made available \$20 million for the DMP. The SAB approved a plan for allocation of these funds at the February 24, 1999, Board meeting which requires a dollar for dollar district match with the exception of direct service districts. On March 24, 1999, the SAB approved the apportionment of these funds. Both the February and March items can be viewed in the DMP section of the OPSC's website.

Prior to the release of the funds allocated, all districts, except direct service districts, must certify, through the County Treasurer, by June 22, 1999, that the required district match was deposited in the district's Deferred Maintenance Fund.

Disabled Veteran Business Enterprise (DVBE)

At the February 24, 1999, the SAB requested legal counsel to provide an opinion regarding the applicability of laws pertaining to the Disabled Veterans Business Enterprise (DVBE) requirements for the SFP. Legal counsel reviewed and concluded that the requirements for utilization of DVBE do not apply to school construction contracts funded under the SFP.

Although not required, the SAB strongly urges school districts to continue to pursue DVBE participation in contracts funded with SFP funds. To assist DVBE's in procuring contracts funded with SFP funds, the OPSC will post on the OPSC Web site the names of the districts that have received funding under the SFP.

Amendments to Senate Bill 50 (SB 50) Emergency Regulations

The OPSC has received numerous public comments regarding the SB 50 regulations and currently is in the process of developing the final regulations that will be submitted to the SAB for consideration at its April 28, 1999, meeting. The Office of Administrative Law (OAL) has readopted the emergency regulations. This provides up to an additional 120 days in which to submit the final regulations.

The SAB adopted an amendment to the regulations at the March 24, 1999, Board meeting regarding the use of modernization funds. This amendment validated current OPSC practice and interpretation of the emergency regulations. It provides that modernization funds can not be used to construct new building areas unless it is replacement area or area required as a result of handicapped access or by the American with Disabilities Act. As part of this adoption, the SAB will require a district to certify that the proposed work in the P&S for modernization projects are consistent with those uses outlined in the amended regulation. This amendment will be included in the final regulations when they are submitted to the OAL.

The SAB also addressed a request to amend the regulations to provide State funding for certain sidewalks located off-site when it is determined that the sidewalks are necessary to insure the health and safety of pupils. The SAB did not approve this proposal.

Offset of Apportionment

The SAB developed a policy regarding Priority One “grandfathered” projects and all “non-grandfathered” projects regarding the offset of apportionments received for those projects under the LPP. Current law was silent regarding the offset of LPP apportionments when those projects were subsequently funded under the SFP. To assure that there is no duplication of State funding for these previous approvals, the SAB will require that the district agree to accept an offset of the SFP grant apportionment by the amount of the LPP apportionment, or agree to rescind the LPP project apportionment and return the funds to the State. Unless advised otherwise, the SAB will deem that the district has agreed to this offset when the district has submitted a funding request for the SFP grant.

Implementation of Assembly Bill (AB) 553: Major Maintenance, Repair and Replacement Plan

Pursuant to the provisions of AB 553, districts are required to develop a major maintenance plan for any LPP project that received a construction apportionment under the LPP on or after July 1, 1998. As a condition for release of these construction funds, the district must certify by school board resolution that it will develop this plan and meet the conditions of this law no later than June 30th of the fiscal year in which the project received the Phase C apportionment. This certification must be made as part of their annual budget process. If the OPSC has already released funds for the LPP project subject to this policy, the OPSC will require the district to certify compliance as part of the closeout audit. If funds have not yet been released by the OPSC for the applicable project, the district will be required to make this certification on *Construction Contract Certification* (Form SAB 599), prior to the release of State funds.

Other Issues

The OPSC has developed a *School Facility Program Application Submittal* checklist of documents required for a complete SFP application. The SFP forms along with the checklist can be found on the OPSC Web site at <http://www.dgs.ca.gov/opsc>.

When a request is made for site acquisition, the district must comply with Regulation Sections 1859.74, 1859.74.1 and 1859.75. As a prerequisite to apply for site acquisition funding, the proposed site must either be owned by the district, in escrow, or the district has filed condemnation proceedings and received an order of immediate possession for the site. The following documents must be submitted as part of the application:

- An appraisal made or updated no more than six months prior to the application submittal for funding. This appraisal must be for the current value of the site.
- The escrow documents that substantiate the actual purchase price of the property.
- An order of possession, if the district has filed condemnation proceedings.

Processing Time

SFP application submissions currently exceed more than 500 per month therefore, OPSC processing may exceed our previous goal of 60 to 90 days. The OPSC is continuing to process applications as rapidly as possible in date received order.

Copies of the applicable attachments regarding the issues contained in this letter can be found along with this letter on the OPSC Web site at <http://www.dgs.ca.gov/opsc>. Should you have questions regarding the contents of this letter, please contact your Project Manager.

Sincerely,

TED W. DUTTON, Executive Officer
Office of Public School Construction

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Attachments